

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PRINCETON EXCESS & SURPLUS LINES
INSURANCE COMPANY A/S/O LUCKY
EAGLE CASINO & HOTEL and LUCKY
EAGLE CASINO & HOTEL,

Plaintiffs,

v.

AMAZON.COM, INC., a Washington
corporation; and SUNPENGCHENG /
BOHANCLUB aka SHEN ZHEN SHI BO
HAN DIAN ZI SHANG WU YOU XIAN
GOG SI, a foreign corporation,

Defendants.

CASE NO. 3:23-cv-05438-JHC

ORDER

This matter comes before the Court sua sponte.

Plaintiffs initiated this action by filing a complaint in federal court on May 12, 2023. *See* Dkt. # 1.¹ They assert that the Court has subject matter jurisdiction based on diversity under 28 U.S.C. § 1332. Dkt. # 3 at 2. But aside from this conclusory statement, the complaint does not allege any specific facts about the amount in controversy. *See generally id.*

¹ Plaintiffs filed an amended complaint on May 23, 2023. Dkt. # 3.

1 Federal district courts are “courts of limited jurisdiction,” possessing “only that power
 2 authorized by Constitution and statute.” *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S.
 3 546, 552 (2005). If a federal court determines that it lacks subject matter jurisdiction at any time
 4 during a dispute, the court must dismiss the action. *See* Fed. R. Civ. P. 12(h)(3); *Rosales v.*
 5 *United States*, 824 F.2d 799, 803 n.4 (9th Cir. 1987); *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 502
 6 (2006). The party invoking jurisdiction must allege facts that establish the court’s subject matter
 7 jurisdiction. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992).

8 District courts have jurisdiction in civil actions where there is complete diversity of
 9 citizenship among the parties and the amount in controversy exceeds \$75,000, exclusive of
 10 interest and costs. *See* 28 U.S.C. § 1332(a). Generally, the amount in controversy is determined
 11 from the face of the pleadings. *See Pachinger v. MGM Grand Hotel–Las Vegas, Inc.*, 802 F.2d
 12 362, 363 (9th Cir.1986). The sum claimed by the plaintiff controls so long as the claim is made
 13 in good faith. *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288 (1938). “To
 14 justify dismissal, ‘it must appear to a legal certainty that the claim is really for less than the
 15 jurisdictional amount.’” *Budget Rent–A–Car v. Higashiguchi*, 109 F.3d 1471, 1473 (9th Cir.
 16 1997) (quoting *St. Paul Mercury Indem. Co.*, 303 U.S. at 289).²

19 ² In diversity cases, when the amount in controversy is in doubt, the Supreme Court has drawn a
 20 sharp distinction between original jurisdiction and removal jurisdiction:

21 [I]n cases brought in the federal court ... [i]t must appear to a legal certainty that the
 22 [plaintiff’s] claim is really for less than the jurisdictional amount to justify dismissal ... A
 23 different situation is presented in the case of a suit instituted in a state court and thence
 24 removed. There is a strong presumption that the plaintiff has not claimed a large amount
 in order to confer jurisdiction on a federal court or that the parties have colluded to that
 end.

St. Paul Mercury Indem. Co., 303 U.S. at 288–290. Plaintiff has brought this suit in federal court,
 so the first standard controls.

1 Although courts generally favor a plaintiff's choice of forum, a pleading must still show
2 "affirmatively and distinctly the existence of whatever is essential to federal jurisdiction." *Tosco*
3 *Corp. v. Communities For a Better Env't*, 236 F.3d 495, 499 (9th Cir. 2001); *see also Mason v.*
4 *Arizona*, 260 F.Supp. 2d 807, 815 (D.Ariz. 2003) ("Unlike a Rule 12(b)(6) motion . . . the court
5 will not reasonably infer allegations sufficient to support federal subject matter jurisdiction
6 because a plaintiff must affirmatively allege such jurisdiction."). Here, Plaintiffs' conclusory
7 statement that "Jurisdiction is proper pursuant to 28 U.S.C. Sect. 1332" does not "affirmatively
8 and distinctly" show that this Court has jurisdiction under section 1332. *See, e.g., Baxter v.*
9 *Rodale, Inc.*, No. CV 12-00585 GAF MANX, 2012 WL 1267880, at *2 (C.D. Cal. Apr. 12,
10 2012), *aff'd*, 555 F.App'x 728 (9th Cir. 2014) (even in a non-removal case, conclusory
11 allegations about the amount in controversy are insufficient).

12 For the foregoing reasons, the Court ORDERS Plaintiffs to show cause why the Court
13 should not dismiss without prejudice the present action for lack of subject matter jurisdiction.
14 Plaintiffs must file a response within fourteen (14) days of the date of this order, and the
15 response must include support for the Court's exercise of subject matter jurisdiction over this
16 action. If Plaintiffs fail to file a response or otherwise fails to show that the Court has subject
17 matter jurisdiction, the Court will dismiss their complaint without prejudice.

18 Dated this 14th day of August, 2023.

19
20 

21 John H. Chun
22 United States District Judge
23
24